IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9.11.2006

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.5039 of 2006

M.Dinesh Kumar .. Petitioner

vs.

1. The Tamilnadu Dr.Ambedkar Government
   Law University,
   Greenways Road, Chennai.

2. The Registrar,
   The Tamilnadu Dr.Ambedkar
   Law University,
   Chennai.

3. The Controller of Examination,
   The Tamil Nadu Dr. Ambedkar
   Law University,
   No.5, P.S. Kumaraswamy Raja Salai,
   Chennai - 600 028. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari to call for the records of the proceedings of the second respondent in C.No.5642/Regr/B4/2005, dated 3.2.2006, confirming the order of the third respondent in No.334/COE/Disc.Proc.Orders/BL June 2005 exam/2005, dated 17.11.2005 and to quash the same.

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For petitioner : Mr.U.M.Ravichandran

For respondents : Mr.V.M.G.Ramakannan
for R1 to R3

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O R D E R

This writ petition has been filed for the issuance of a writ of certiorari to call for the records of the proceedings of the second respondent in C.No.5642/Regr/84/2005, dated 3.2.2006, confirming the order of the third respondent in No.334/COE/Disc.Proc.Orders/BL June 2005 exam/2005, dated 17.11.2005 and to quash the same.

2. It is the case of the petitioner that he was a student of Dr.Ambedkar Government Law University and was studying in the final year of B.L. (5 year) Degree Course at Dr.Ambedkar Government Law College, Chennai, during the year 2005. During June/July 2005, the petitioner took the examinations conducted by the second respondent-University for third year Law of Evidence paper and the final year papers.

3. The petitioner had further stated that on 9.11.2005, the third respondent had served a show cause notice on the petitioner directing him to appear in person before the Disciplinary Committee of the Dr.Ambedkar Law University, on or before 17.11.2005, and had also directed him to give his written explanation, on or before 16.11.2005, as to why the disciplinary proceedings should not be taken against him for the alleged malpractice during the examinations. The petitioner had given his written explanation, on 16.11.2005, and had appeared before the Disciplinary Committee for the personal hearing. However, he was not given an opportunity of personal hearing before the Disciplinary Committee and he was not informed about any specific charge framed against him. The disciplinary authority had failed to conduct the enquiry and had refused to furnish the relevant documents required by the petitioner. On 17.11.2005, the petitioner was served with a notice by the third respondent intimating him that the authorities had decided to cancel all the papers written in the examinations conducted in June 2005 and debarring the petitioner for two more sessions. This action of the third respondent is contrary to the principles of natural justice. The punishment imposed is in any case, disproportionate to the alleged charge made against the petitioner.

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4. The impugned proceedings of the third respondent Official Memorandum No.334/COE/Disc.Proc. orders/B.L. June 2005 exam/2005, dated 17.11.2005, states as follows:

> "The authorities of the University have considered the reported malpractice in respect of DINESHKUMAR.M (Register number: 50050593) of Dr.Ambedkar Government Law College, Chennai during

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the B.L. Degree Examinations, June 2005. The authorities decided to cancel all the papers written in June 2005 Examinations and debar for two more sessions. Therefore, he is eligible to appear for the November 2006 Examinations."

5. Subsequently, the petitioner had made a representation, dated 22.11.2005, to the Vice-Chancellor of the Dr.Ambedkar Law University, Chennai stating that he was not involved in the alleged malpractice and that he was innocent. Therefore, he had requested that his case may be considered compassionately. A reply had been sent by the Registrar-in-charge of the Tamil Nadu Dr.Ambedkar Law University in C.No.5642/Regr/B4/2005, dated 3.2.2006, which is as follows:

"I am by direction to state that it was reported that you had indulged in malpractice in June 2005 B.L. Degree Examinations.

As per the rules and regulations of the Tamil Nadu Dr.Ambedkar Law University, Disciplinary Committee was constituted to hear the candidates in person against to whom the alleged malpractice was reported. Prior to the enquiry you had called for to submit the written explanation if any.

In compliance of natural justice principle, opportunity was given to submit your case before the Disciplinary Committee. The written explanation submitted by you was placed before the Committee. The Committee also perused it impartially. After considering your submission, the Committee passed order.

The report of the Disciplinary Committee was placed before the Syndicate of the University and the Syndicate approved the report.

The decision of the Syndicate is final. The approved decision of the Syndicate cannot be reviewed further."

6. In paragraph 3 of the counter-affidavit filed on behalf of the respondents, it is submitted "..... that on 5.7.2005, Dr.R.Antony Raj, Hall Superintendent, 5 year B.L. Degree Course, Dr.Ambedkar Government Law College, Chennai submitted a report against the petitioner viz., Thiru M.Dineshkumar, Register No.50050593 stating that he was in possession of 4 pages of written manuscripts and copying the same while he was writing the examination for the paper Law of Evidence (FME), on 5.7.2005 afternoon. Further, it has been reported that the petitioner caused disturbances to the other examinees. The answer scripts along with the seized incriminated manuscripts were forwarded to the office of

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the Controller of Examinations for further action. As per the rules and regulations of the Tamil Nadu Dr.Ambedkar Law University, Disciplinary Committee was constituted to hear the candidate in person against to whom the alleged malpractice was reported. On 9.11.2005, the petitioner was called for to submit the written explanation, if any. Compliance to the notice, he submitted his written explanation and the same was placed before the Committee, on 17.11.2005. The committee also perused it impartially. In compliance of natural justice principle, an opportunity was given to the petitioner to submit his case before the Disciplinary Committee on 17.11.2005 and further he was heard elaborately and the manuscripts, which were seized from him was showed to him. The petitioner came late to the examination hall by half an hour. It shows his irregularity. After getting the permission from the Chief Superintendent, he entered the hall. The incriminating materials possessed by him contained all the important provisions of the Indian Evidence Act and the important case laws. The letters that have been written in the manuscripts were very small and no prudent student would write in a similar way for his reference ordinarily. After careful scrutiny, the Disciplinary Committee recommended to impose the punishment as to cancel all the papers written in June 2005 examinations and debar for two more sessions and the recommended punishment was approved by the Syndicate in its meeting held, on 7.12.2005. This punishment could not be said as exorbitant but it is rationale. Further, the candidates, who have caused disturbances and commotions in the examination hall in other centres in which the examinations were conducted, were similarly placed and imposed similar punishment. The uniformity maintained by the Disciplinary Committee elicits fairness, maintaining equality and absence of arbitrariness on the part of the Disciplinary Committee."

7. The learned counsel appearing on behalf of the respondents had been directed by this Court to produce the records relating to the Minutes of the Syndicate Sub-Committee Meeting (Disciplinary-Committee) held on 17.11.2005. On a perusal of the Minutes of the Syndicate Sub-Committee Meeting (Disciplinary-Committee), held on 17.11.2005, it is seen that the Committee had reviewed the reported cases of malpractice during the B.L.3 year/5 year B.L. Degree Course Examinations, June 2005 and had resolved to send notices to the individuals for a personal hearing to be held, on 17.11.2005. It has also been recorded that the Committee, after thorough hearing of the candidates and after careful scrutiny and consideration of both oral and written submissions, in the light of available records and materials and after taking note of the past antecedents of the candidates, was satisfied to award the punishment as detailed in the Annexures I & II. In the case of the petitioner, the punishment imposed was cancellation of all the papers written in the concerned session and debarring for two more sessions. However, the petitioner was said to be eligible to appear in the November 2006 examinations.

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The Minutes of the Syndicate Sub-Committee Meeting (Disciplinary-Committee), dated 17.11.2005, was placed before the 67th Special Meeting of the Syndicate for approval. In the meeting of the Syndicate, held on 17.12.2005, it was resolved to approve the Minutes, dated 17.11.2005, of the Disciplinary Committee for the alleged malpractices of the students reported in the examinations held in June 2005.

10. From the facts and circumstances of the case and on a perusal of the records placed before this Court, it is clear that the petitioner had been given sufficient opportunity with regard to the alleged malpractice indulged in during the examinations conducted in July, 2005. The petitioner had been given sufficient opportunity by way of an enquiry wherein he was asked to explain with regard to the alleged malpractice. In such matters, where malpractice is alleged to have been committed by the students during the examinations they should not be encouraged at any cost. Further, adherence to strict discipline should be the order of the day in all the educational institutions, rather than a show of sympathy by the Courts of Law, so that such institutions would be the nurturing grounds for the students to blossom into good and law abiding citizens. An enquiry of this nature, with regard to the alleged malpractices committed by the students in the examinations, may not be a roving enquiry where the principles of natural justice will apply in all its magical magnificence. The principles of natural justice cannot be applied as a straitjacket formula. They can neither be like bulls on the rampage nor like bears in hibernation. They apply differently in different situations as necessitated by the facts and circumstances of each case and with an amount of caution and care. In the present case, this Court is convinced that sufficient opportunity was given to the petitioner to defend himself against the allegations of malpractice during the examinations conducted by the Dr.Ambedkar Law University in the month of July, 2005.

11. Further, it is seen that the petitioner had filed W.P.M.P.No.14769 of 2006, in which, this Court had passed an order, dated 9.5.2006, stating as follows:

> " 4. Having regard to the facts and circumstances of the case, without prejudice to the contentions of both the parties, the petitioner is permitted to appear for the examination which is scheduled to commence from 12.6.2006. However, the result of such examinations will not confer any right on the petitioner, unless the writ petition is decided in his favour. It is also made clear that the result of the petitioner shall not be published."

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12. It is not in dispute that the petitioner would be eligible to take the ensuing examinations to be held in the month of November, 2006, as stated in the impugned order itself.

13. In such circumstances, this Court is of the considered view that no further indulgence is needed to interfere with the punishment imposed on the petitioner. The results of the examinations written by the petitioner consequent to the order of this Court, dated 9.5.2006, shall not be published. The petitioner, if found otherwise qualified and conforms to the other requirements laid down by the University, shall be permitted to take all the pending examinations to be conducted by the second respondent, starting from the month of November, 2006.

14. With the above directions, the writ petition is disposed of. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Tamilnadu Dr.Ambedkar Government
   Law University, Greenways Road, Chennai.

2. The Registrar,
   The Tamilnadu Dr.Ambedkar
   Law University,
   Chennai.

3. The Controller of Examination,
   The Tamil Nadu Dr. Ambedkar
   Law University,
   No.5, P.S. Kumaraswamy Raja Salai,
   Chennai - 600 028.

+ 2 ccs to Mr. Ramalingam, Advocate SR no. 53609

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